



6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R04-OAR-2012-0888; FRL-9780-8]

#### Approval and Promulgation of Implementation Plans

#### Tennessee: Revisions to Volatile Organic Compound Definition

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rule.

**SUMMARY:** EPA is taking direct final action to approve changes to the Tennessee State Implementation Plan (SIP), submitted by the State of Tennessee, through the Tennessee Department of Environment and Conservation (TDEC) on September 3, 1999. Tennessee's September 3, 1999, SIP adds 17 compounds to the list of compounds excluded from the definition of "Volatile Organic Compound" (VOC). EPA is approving this SIP revision because the State has demonstrated that it is consistent with the Clean Air Act (CAA or Act).

**DATES:** This direct final rule is effective [Insert date 60 days after publication in the Federal Register] without further notice, unless EPA receives adverse comment by [Insert date 30 days after publication in the Federal Register]. If adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the Federal Register and inform the public that the rule will not take effect.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R04-OAR-2012-0888, by one of the following methods:

1. [www.regulations.gov](http://www.regulations.gov): Follow the on-line instructions for submitting comments.
2. E-mail: [R4-RDS@epa.gov](mailto:R4-RDS@epa.gov).
3. Fax: (404) 562-9019.
4. Mail: "EPA-R04-OAR-2012-0888," Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960.
5. Hand Delivery or Courier: Lynorae Benjamin, Chief, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding federal holidays.

*Instructions:* Direct your comments to Docket ID No. EPA-R04-OAR-2012-0888.

EPA's policy is that all comments received will be included in the public docket without change and may be made available online at [www.regulations.gov](http://www.regulations.gov), including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit through [www.regulations.gov](http://www.regulations.gov) or e-mail, information that you consider to be CBI or otherwise protected. The [www.regulations.gov](http://www.regulations.gov) website is

an “anonymous access” system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through [www.regulations.gov](http://www.regulations.gov), your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA’s public docket visit the EPA Docket Center homepage at <http://www.epa.gov/epahome/dockets.htm>.

*Docket:* All documents in the electronic docket are listed in the [www.regulations.gov](http://www.regulations.gov) index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in [www.regulations.gov](http://www.regulations.gov) or in hard copy at the Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your

inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Sean Lakeman, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. The telephone number is (404) 562-9043. Mr. Lakeman can be reached via electronic mail at [lakeman.sean@epa.gov](mailto:lakeman.sean@epa.gov).

## **SUPPLEMENTARY INFORMATION:**

### **Table of Contents**

- I. Analysis of the State's Submittal**
- II. Final Action**
- III. Statutory and Executive Order Reviews**

### **I. Analysis of the State's Submittal**

Tennessee's September 3, 1999, SIP submission changes rule 1200-3-9-.01 to add a total of 17 compounds to the list of compounds excluded from the definition of VOC to be consistent with EPA's definition of VOC at 40 CFR 51.100(s). The SIP submittal is in response to EPA's revision to the definition of VOC, (at 40 CFR 51.100(s)) published in the Federal Register on August 25, 1997 (62 FR 44900) and April 9, 1998 (63 FR 17331) adding the 16 compounds listed below in Table 1 and the compound methyl acetate

respectively. These compounds were added to the exclusion list for VOC on the basis that they have a negligible effect on tropospheric ozone formation.

Tropospheric ozone, commonly known as smog, occurs when VOC and nitrogen oxide (NOx) react in the atmosphere. Because of the harmful health effects of ozone, EPA limits the amount of VOC and NOx that can be released into the atmosphere. VOCs are those compounds of carbon (excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides, or carbonates, and ammonium carbonate) which form ozone through atmospheric photochemical reactions. Compounds of carbon (or organic compounds) have different levels of reactivity; they do not react at the same speed, or do not form ozone to the same extent. It has been EPA's policy that compounds of carbon with a negligible level of reactivity need not be regulated to reduce ozone (42 FR 35314, July 8, 1977). EPA determines whether a given carbon compound has "negligible" reactivity by comparing the compound's reactivity to the reactivity of ethane. EPA lists these compounds in its regulations at 40 CFR 51.100(s), and excludes them from the definition of VOC. The chemicals on this list are often called "negligibly reactive." EPA may periodically revise the list of negligibly reactive compounds to add compounds to or delete them from the list.

TDEC's September 3, 1999, SIP revision changes rule 1200-3-9-.01 to add a total of 17 compounds to the list of compounds excluded from the definition of VOC in accordance with the federal list of compounds designated as having negligible photochemical reactivity at 40 CFR 51.100(s).

**Table 1 - 16 Compounds Added to the List of Negligibly Reactive Compounds**

Compound	Chemical Name
HFC-32	Difluoromethane

HFC-161	Ethylfluoride
HFC-236fa	1,1,1,3,3,3-hexafluoropropane
HFC-245ca	1,1,2,2,3-pentafluoropropane
HFC-245ea	1,1,2,3,3-pentafluoropropane
HFC-245eb	1,1,1,2,3-pentafluoropropane
HFC-245fa	1,1,1,3,3-pentafluoropropane
HFC-236ea	1,1,1,2,3,3-hexafluoropropane
HFC-365mfc	1,1,1,3,3-pentafluorobutane
HCFC-31	Chlorofluoromethane
HCFC-123a	1,2-dichloro-1,1,2-trifluoroethane
HCFC-151a	1-chloro-1-fluoroethane
C <sub>4</sub> F <sub>9</sub> OCH <sub>3</sub>	1,1,1,2,2,3,3,4,4-nonafluoro-4-methoxybutane
(CF <sub>3</sub> ) <sub>2</sub> CFCF <sub>2</sub> OCH <sub>3</sub>	2-(difluoromethoxymethyl)-1,1,1,2,3,3,3-heptafluoropropane
C <sub>4</sub> F <sub>9</sub> OC <sub>2</sub> H <sub>5</sub>	1-ethoxy-1,1,2,2,3,3,4,4,4-nonafluorobutane
(CF <sub>3</sub> )CFCF <sub>2</sub> OC <sub>2</sub> H <sub>5</sub>	2-(ethoxydifluoromethyl)-1,1,1,2,3,3,3-heptafluoropropane

## II. Final Action

EPA is approving the aforementioned changes to the State of Tennessee SIP, because it is consistent with EPA's definition of VOC and the CAA. EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. However, in the proposed rules section of this Federal Register publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should adverse comments be filed. This rule will be effective [Insert date 60 days from the date of publication] without further notice unless the Agency receives adverse comments by [Insert date 30 days from date of publication].

If EPA receives such comments, then EPA will publish a document withdrawing the final rule and informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period. Parties interested in commenting should do so at this time. If no such comments are received, the public is

advised that this rule will be effective on [Insert date 60 days from date of publication] and no further action will be taken on the proposed rule.

### **III. Statutory and Executive Order Reviews**

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal



Register. A major rule cannot take effect until 60 days after it is published in the Federal Register. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by [FEDERAL REGISTER OFFICE: insert date 60 days from date of publication of this document in the Federal Register]. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file any comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of today’s **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action may not be challenged later in proceedings to enforce its requirements. *See* section 307(b)(2).

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: February 5, 2013.

A. Stanley Meiburg,

Acting Regional Administrator,  
Region 4.

40 CFR part 52 is amended as follows:

**PART 52--[AMENDED]**

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

**Subpart RR – Tennessee**

2. Section 52.2220(c) is amended by revising the entry in Table 1 for “Section 1200-3-9.01” to read as follows:

**§ 52.2220(c). Identification of plan.**

\* \* \* \*

(c) \* \* \*

Table 1 - EPA Approved Tennessee Regulations

State citation	Title/subject	State effective date	EPA approval date	Explanation
**	**	*	*	*
<b>CHAPTER 1200–3–9 CONSTRUCTION AND OPERATING PERMITS</b>				

1200-3-9-.01	Definitions	6/27/2011	[Insert date of publication in <u>Federal Register</u> ] [Insert first page of publication]	<p>On [Insert date of publication in <u>Federal Register</u>] EPA revised this section to add 17 compounds to the list of compounds excluded from the definition of VOC that was state effective on 9/3/1999.</p> <p>EPA is approving Tennessee's July 29, 2011, SIP revisions to Chapter 1200-3-9-.01 with the exception of the term “particulate matter emissions” at 1200-03-09-.01(4)(b)47(vi) as part of the definition for “regulated NSR pollutant” regarding the inclusion of condensable emissions in applicability determinations and in establishing emissions limitations.</p> <p>EPA approved Tennessee's May 28, 2009 SIP revisions to Chapter 1200-3-9-.01 with the exception of the “baseline actual emissions” calculation revision found at 1200-3-9-.01 (4)(b)45(i)(III), (4)(b)45(ii)(IV), (5)(b)1(xlvii)(I)(III) and (5)(b)1(xlvii)(II)(IV) of the submittal.</p>
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[FR Doc. 2013-03606 Filed 02/15/2013 at 8:45 am; Publication Date: 02/19/2013]